

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held electronically via Zoom.

The notice included information for members of the public on how to participate.

June 16, 2020

Time: 11:00 am

Commission Members Participating

Michael Puerner, Chair, Joshua Blanchard, Tracy Brame, Kimberly Buddin, Judge Jeffrey Collins, Andrew DeLeeuw, Judge James Fisher, Christine Green, Joseph Haveman (joined at 1:10 pm), David Jones, Margaret McAvoy, Tom McMillin, Judge Kristina Robinson Garrett, John Shea, William Swor, Gary Walker

Commission Members Absent:

Nathaniel Crampton, James Krizan and Cami Pendell

Staff Members Participating

Loren Khogali, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Christopher Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 11:27 am.

Introduction of Commission Members and guests

Chair Puerner announced that three new members were appointed to the Commission on May 22, 2020. He introduced Commissioner Blanchard, Commissioner Jones, and Judge Robinson Garrett.

Public Comment

Drew Van de Grift offered public comment on behalf of Wayne County.

Paulette Loftin offered public comment on behalf of the 50th District Court in Pontiac.

Chantá Parker offered public comment on behalf of NDS – Detroit.

Approval of the Agenda

There were no additions to the agenda. Commissioner Swor moved that the agenda be adopted as presented, Commissioner Green seconded. The motion carried.

Consent Agenda

Commissioner McAvoy moved that the consent agenda containing the minutes from the Commission’s April meeting be approved, Commissioner Shea seconded. The motion carried.

Chair Report

Chair Puerner provided an update on the legislation to implement a portion of the recommendations made by the Joint Task Force on Jail and Pretrial Incarceration. Those bills were introduced on June 11. He provided an overview of the meeting materials.

Executive Director Report

Ms. Khogali provided an overview of the written report given to members prior to the meeting.

She offered the observation that indigent defense attorneys have been critical to reducing local jail populations in the context of COVID-19. She also noted the important role of resourced indigent defense systems acting as a constitutional check on the power of police and prosecutors in a criminal legal system that disproportionately affects Black and Brown communities in Michigan.

Ms. Khogali noted internal and external presentations and committees in which staff members have participated. She also provided an update as to the space in the Ottawa building into which MIDC is supposed to move in anticipation of the expiration of its lease July 31st.

The Commission returned to public comment. Lillian Diallo offered comments on behalf of Wayne County Criminal Defense Bar Association.

Commission Business

MIDC FY19 Annual Report

Ms. Khogali highlighted transformations in indigent defense that are documents in the report.

Commissioner Swor moved that the report be approved and published, Judge Collins seconded the motion. The motion carried.

Legislative/Appropriations Update

Ms. Westrate provided an update on the legislature's annual appropriations process.

FY 21 Compliance Planning Process

FY 21 Grant Agreement

Ms. Khogali provided an overview of the FY 21 grant agreement. MIDC staff solicited feedback from members of the Michigan Association of Counties in drafting the language.

Judge Collins moved that the FY 21 grant agreement be adopted, Judge Fisher seconded the motion. The motion carried.

Proposed Grant Manual

Ms. Khogali provided an overview of the grant manual. The only changes that were made since the last Commission meeting are on pages 10 and 20 and are noted in the red text.

Commissioner Green moved that the grant manual be adopted, Commissioner Swor seconded the motion. The motion carried.

Commissioner Shea had connection issues and was not present for the votes on the FY 21 Grant Agreement and Proposed Grant Manual. Had he been present, he would have supported both motions. He returned to the meeting at 12:22 pm.

Report and Recommendation of Compliance Planning Committee

Judge Collins and Ms. Khogali provided an overview of the Compliance Planning Committee's meeting.

Judge Fisher moved if there were a shortfall in the grant appropriation for FY 21, that the Commission would not address that shortfall through an "across the board" cut to all funding units but rather apply an approach that recognizes the individual nature of the local compliance plans. Commissioner DeLeeuw seconded the motion. After discussion, Judge Fisher requested that the motion be tabled pending the discussion on the compliance plan assessment tool.

Compliance Plan Assessment Tool

Dr. Siegel provided an overview of the various methods that the Commission could use to compare the costs from one system to another. Dr. Siegel and Mr. Sadler have developed a new tool that calculates a standardized score for each system. Scores over "1" indicate that the Commission may want to complete an additional review.

The Commission discussed the new assessment tool.

Judge Fisher moved that his previous motion regarding potential shortfalls in the FY 21 appropriations be removed from the table and considered. Chair Puerner requested a roll call vote. The following Commissioners voted to support the motion: Chair Puerner, Commissioner Blanchard, Commissioner Buddin, Commissioner Brame, Judge Collins, Commissioner DeLeeuw, Judge Fisher, Commissioner Green, Commissioner Jones, Commissioner McAvoy, Commissioner McMillin, Judge Robinson Garrett, Commissioner Shea, Commissioner Swor and Commissioner Walker. The motion carried. No members abstained or voted no.

The Commission recessed from 1:05 pm until 1:20 pm.

FY 20 Compliance Updates

Budget Adjustments

Ms. Mack approved budget adjustment requests for the following systems:

- Bay County
- Benzie/Manistee Counties
- 23rd District Court - Taylor
- 28th District Court - Southgate
- 47th District Court - Farmington
- 51st District Court - Waterford
- 59-1 District Court -Grandville
- Gogebic County
- Iron County
- Lake County
- Livingston County
- Menominee County
- Monroe County
- Montcalm County
- Muskegon County
- Oakland County
- Oceana County
- Osceola County
- Presque Isle County
- Saginaw County
- Sanilac County
- St. Clair County
- St. Joseph County

The approved adjustments did not affect the total system costs.

Ms. Mack denied budget adjustments for two systems, the 50th District Court in Pontiac and Kalamazoo County.

Planning Costs for City of Detroit

The City of Detroit has requested planning costs for FY 20 totaling \$237,014.62. The city submitted invoices for the project manager's time (\$5132.40) and a pilot project for Standard 4 (\$231,822.22).

Judge Collins moved that the Commission approve \$237,014.62 in planning costs for fiscal year 2020 requested by the City of Detroit, Commissioner Walker seconded. The motion carried.

Review of Initial FY 21 Compliance Plan Submissions

Extensions Related to declared State of Emergency

In May of 2020, Governor Whitmer declared a State of Emergency for several counties because of flooding. MIDC staff recommends extending the deadline for submitting plans and cost analysis for the following counties: Iosco, Midland and Saginaw.

Commissioner Haveman moved that the Commission authorize extensions until June 30th for Iosco, Saginaw, and Midland to submit compliance plans due to the State of Emergency declared in those regions. No other extensions for late submissions are approved at this time. All systems should submit their plans and cost analyses as soon as possible. The treatment of plans submitted after the due date of May 31, 2020, will be addressed by the Commission at its August meeting. Judge Fisher seconded. The motion carried.

Committee Review

Several plans were referred to the Commission's Increase to Direct Costs Committee. The committee, chaired by Commissioner Swor, met via Zoom on Thursday June 11 to discuss the following plans:

- Chippewa County
- Luce County
- 24th District Court – Allen Park
- 28th District Court – Southgate
- 48th District Court – Bloomfield Hills

Judge Collins provided an overview of the committee's discussion.

Substantive Review for Commission Decisions

Disapprove plan and disapprove cost analysis

Ms. McCowan and Ms. Prentice-Sao provided an overview of the plan submitted by Barry County. MIDC staff recommends disapproval of the plan and disapproval of the cost analysis submitted by the county.

Commissioner Green moved that the staff recommendation be adopted and that the plan and cost analysis submitted by Barry County be disapproved. Judge Collins seconded the motion. The motion carried.

Approve plan but disapprove cost analysis

Ms. McCowan provided an overview of the plan and cost analysis submitted by the 50th District Court – City of Pontiac.

Ms. Loftin provided additional comments on behalf of the city.

Ms. McCowan and Ms. Klimaszewski provided an overview of the plan and cost analysis submitted by Roscommon County.

MIDC staff recommends that the plans submitted by the 50th District Court – City of Pontiac and Roscommon County be approved and that the cost analyses be disapproved.

Commissioner Swor moved that the staff recommendation be adopted and that the plans for the 50th District Court – City of Pontiac and Roscommon County be approved and that the cost analyses be disapproved. Judge Collins seconded the motion. The motion carried.

Approve the plan and approve the cost analysis

Ms. McCowan and the Regional Managers provided an overview of the plans and cost analyses that had recommendations for approval from MIDC staff. The approval was considered in one motion after all 19 plans had been discussed.

Ms. McCowan and Ms. Wangler provided an overview of the plans and cost analyses from the following systems in the MIDC’s Northern Michigan region:

- Antrim County
- Benzie/Manistee Counties
- Chippewa County
- Emmet County
- Gogebic County
- Kalkaska County
- Luce County
- Ontonagon County
- Otsego County

Ms. McCowan and Ms. Staley provided an overview of the plan and cost analysis submitted by Hillsdale County in the MIDC’s South Central Michigan region.

Ms. McCowan and Ms. McDoniel provided an overview of the plans and cost analyses from the following systems in the Wayne County:

- 18th District Court – Westland
- 24th District Court – Allen Park
- 28th District Court – Southgate
- 31st District Court – Hamtramck
- Grosse Pointe Park
- Grosse Pointe City/Municipal

Ms. McCowan and Ms. Smithson provided an overview of two plans from the MIDC’s Lapeer Macomb, Oakland, and St Clair region:

- 47th District Court – Farmington
- 48th District Court – Bloomfield

Ms. McCowan and Ms. Klimaszewski provided an overview of the plan and cost analyses submitted by Mecosta County in the MIDC's Mid-Michigan region.

Karen Moore provided comments on behalf of Mecosta County.

MIDC staff recommends that the plans and costs analyses for the 19 systems listed above be approved.

Commissioner Swor moved that the staff recommendation be adopted and that the plans and cost analyses for the 19 systems listed above be approved, Commissioner Shea seconded. The motion carried.

The Commission will not meet in July. The next meeting will be August 18, 2020 at 11:00 am.

Commissioner Swor moved that the meeting be adjourned, Judge Fisher seconded. The motion carried.

The meeting adjourned at 2:43 pm.

Respectfully submitted,
Marcela Westrate